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*Attorneys for the Fund Defendants*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RICHARD ELLO,

Plaintiff,

V.

ISHRY SINGH, et al.,

Defendants.

Case No. 05 CV 9625 (RJS)

## NOTICE OF MOTION

PLEASE TAKE NOTICE that Defendants Ishry Singh, Laborers-Employers Cooperation and Education Trust Fund, Mason Tenders' District Council Trust Funds ("MTDC Funds"), Raymond Pocino, as a Trustee of the MTDC Funds, and John Virga, MTDC Funds' Director (collectively, the "Fund Defendants"), through their attorneys, Proskauer Rose LLP, will move this Court before the Honorable Richard J. Sullivan, District Judge, United States Courthouse, 500 Pearl Street, Room 615, New York, New York 10007, at such time as is determined by this Court, for an order dismissing with prejudice the action as against the Fund Defendants. Oral argument shall be on a date and at a time designated by the Court. In support of their motion, the Fund Defendants will rely on the attached Declaration of Deidre A. Grossman, dated May 28, 2008, and the exhibits annexed thereto, the accompanying memorandum of law, and upon all prior pleadings and proceedings in this action.

Dated: New York, New York  
May 28, 2008

PROSKAUER ROSE LLP

Respectfully submitted,

By: /s/Deidre A. Grossman

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